

Section 2

Regulation and Statement of Purpose

IMPORTANT: Read instructions on back of last page (Certification Page) before completing this form. Failure to comply with instructions may cause disapproval of proposed Regulations

State of Connecticut
REGULATION
of

NAME OF AGENCY

Department of Energy and Environmental Protection

Concerning

SUBJECT MATTER OF REGULATION

Vessel Length Restriction on Candlewood Lake

(effective from passage)

Section 15-121-B15a of the Regulations of the Connecticut State Agencies is amended by adding subsection (b) as follows:

(NEW) (b) No person shall operate a registered vessel that is 26 feet in length or greater on the waters of Candlewood Lake unless such operation has been exempted or authorized by the Commissioner under this subsection. For the purpose of this subsection the registered length of the vessel shall be the length identified on the vessel's certificate of number awarded by this state, by another state or by the United States pursuant to the provisions of the federal Boat Safety Act of 1971, or marine document issued by the United States Coast Guard.

(1) The following vessels are exempt from the requirements of this subsection:

- (A) vessels that while on the waters of Candlewood Lake are operated exclusively by authorized law enforcement personnel in the performance of official duties;
- (B) vessels that while on the waters of Candlewood Lake are used exclusively for invasive species control, sewage transfer, or marine structure or infrastructure construction or maintenance; and
- (C) vessels displaying a valid marine dealer registration number that are being demonstrated for sale, test run in connection with maintenance or repair, or surveyed by a certified marine surveyor.

(2) The Commissioner shall authorize the operation of vessels that are 26 feet in length or greater on the waters of Candlewood Lake that meet one of the following conditions:

- (A) The vessel is owned by a person or entity, and such person or entity purchased and registered the vessel prior to the effective date of this regulation and presents evidence to the Commissioner of current or past owned or rented lakefront storage space or dockspace for such vessel, or can otherwise document use of the subject vessel on the waters of Candlewood Lake for more than ten consecutive days or twenty days in aggregate, over the twenty four months preceding the effective date of this regulation.
- (B) The vessel is consigned to a marine dealer by a person meeting the conditions of subparagraph (A) of this subdivision or is owned by a marine dealer located in one of

the five surrounding municipalities (Danbury, Brookfield, New Milford, Sherman, or New Fairfield) where the vessel was present in inventory, ordered for inventory, or consigned to the marine dealer prior to the effective date of this regulation.

(C) Notwithstanding subparagraph (B) of this subdivision, for any marine dealer located within one of the five municipalities surrounding Candlewood Lake who shares vessel inventory with other businesses that are located outside of the five municipalities surrounding Candlewood Lake, the Commissioner may authorize the number of vessels equal to the average number of oversized vessels sold over the last five years per year, rounded up to the nearest whole number, from that business located within one of the five municipalities surrounding Candlewood Lake.

(D) A marine dealers shall provide proof to the satisfaction of the Commissioner regarding the number of vessels claimed for authorization, and that such vessels are owned by said marine dealer at the time the request to authorize such vessels is made. Said marine dealer shall identify those vessels to be authorized within sixty days of the effective date of this regulation, and on a form provided by the Commissioner.

(E) For the purpose of this section, a marine dealer is a business that possesses a Marine Dealer Registration Number pursuant to Section 15-145 of the Connecticut General Statutes, or that uses a North American Industry Classification System (NAICS) or Standard Industry Classification (SIC) code for vessels sales in tax filings, and can demonstrate the use of such code in tax filings prior to the effective date of passage.

(3) The Commissioner shall provide permanent numbered decals that shall be attached to those vessels that are 26 feet in length or greater that are authorized by the Commissioner to operate on the waters of Candlewood Lake and that are not exempt in accordance with this section. Until December 31, 2013, the Commissioner shall issue one such authorizing decal for each vessel 26 feet or greater in length meeting one of the conditions of subdivision (2) of this subsection. The authorizing decal shall be affixed to the starboard side of the vessel such that the decal is not obstructed from view: (1) on the hull and above the waterline and closer to the stern than the bow or (2) on a superstructure or windshield near the operator's station. The authorizing decal shall be permanently affixed to the vessel for the life of the vessel. The authorizing decal shall not be transferable to other vessels or other hulls. Requests for an authorizing decal shall be made by written application approved by the Commissioner.

(4) The Commissioner may issue a replacement authorizing decal at any time upon written application.

(5) An individual vessel owner or marine dealer who is denied an authorizing decal or a replacement authorizing decal by the Commissioner or the Commissioner's designee may apply to the Commissioner for reconsideration of the denial. The Commissioner may review such application and may elect to issue an authorizing decal or a replacement decal after reviewing additional information presented by the individual vessel owner or marine dealer.

(6) The Commissioner may designate the Candlewood Lake Authority (CLA) to act as agent in issuing authorizing decals upon receipt of written agreement from the executive officer of the lake authority. The Commissioner may designate any or each of the governments of the

several lakefront municipalities (Danbury, Brookfield, New Milford, Sherman, and New Fairfield) to act as agent in issuing authorizing decals upon receipt of written agreement from the municipality's executive officer. The CLA or any municipality so designated may withdraw from being a designated agent upon written request by the Chairman of the CLA or that municipality's executive officer to the Commissioner, and shall be effective forty-five (45) days from the date which the written withdrawal is received by the Commissioner.

(7) Effective from the date of passage, any law enforcement officer or lake patrolman duly authorized to enforce these regulations may terminate the operation of a vessel that is in violation of this section. Effective 6 months from the date of passage, operation of a registered vessel on the waters of Candlewood Lake that is 26 ft or greater and that does not have an authorizing decal issued by the Commissioner shall be an infraction.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

In 2010 the Connecticut General Assembly (CGA) passed Special Act 10-3, which directed the DEP to propose a regulation implementing a vessel length limit of under 26-feet on Candlewood Lake for the purpose of halting the general escalation of vessel size on the lake, both a cause and a consequence of user conflict.

Under the proposed regulation, persons operating an unauthorized oversized vessel will be subject to ejection from the lake and/or a fine, and the size of the vessel will be determined by the registered length as it appears on its state-issued certificate of registration.

As part of this proposed regulation, authorization to operate will be given to oversized vessels that have historically been used or that have been ordered for use on Candlewood Lake prior to the effective date of the proposed regulation, and for the lifetime of a given vessel. The Commissioner will accomplish this "Grandfathering" function by issuing a numbered decal to the owner of a qualified oversized vessel, the display of which will indicate an oversized vessel's authorized presence on the lake.

Accommodation is also made for oversized commercial and government vessels and vessels that have the function of maintaining the quality of the lake environment. While there is an anticipated impact to small business, measures protective of business have been included.

Implementation of this regulation will have the short term effect of capping the number of oversized vessels on Candlewood Lake, and ending the general escalation of vessel size that is taking place on the lake. The long term effect will be to *reduce* the size of the fleet of oversized vessels, as vessels age and are removed from service.